

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

HUNTINGTON DIVISION

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 3:10-CR-00111-07

BARRY ADKINS

AFFIDAVIT OF BARRY ADKINS

STATE OF OHIO:

COUNTY OF LAWRENCE, to-wit:

I, Barry Adkins, state and affirm as follows:

1. My name is Barry Adkins
2. In November 2009, agents of the government came to my home and removed a large quantity of bank records and other documents and things, including records of deposits with Chase Bank.
3. At some point later, my attorney and I met with a government agent at a building in Charleston to look at the records. After waiting for hours, I had to leave for a doctor's appointment. My attorney later told me that the agent said that he could not find the records.
4. Later, my lawyer said that the government returned some records, but the government did not return all of the records that were taken, including records of deposits by Tri-State Realty with Chase Bank (the government did return the records concerning my mother's car lot from the time the lot opened in 2000 until 2004, but those records were not at issue in my case).
5. Shortly before trial, I learned from my attorney that the government intended to call a bank teller from Chase Bank to testify against me at trial. I did not know she was going to testify concerning the deposits until September 1, 2011, two business days before trial. I understand that

she testified before the judge in chambers before she took the witness stand, and that the judge had some reservations but decided to let her testify in front of the jury. As the bank teller testified, I did not believe when she was testifying that some of the things she was saying were true and accurate.

6. I needed the deposit records taken by the government for use at trial so my lawyer could question the bank teller about the deposits.

7. Because the government did not return the deposit records taken from my house before trial, after trial I contacted Chase and after considerable effort learned that the deposit records should contain the teller's name (or number) and/or the cash box number. I then obtained the deposit records from Chase. All of this took a considerable period of time and effort. After reviewing the records, I believe that they show that some of the things the bank teller said at trial concerning the deposits were either not true or only partially true. I gave the records to my lawyer, and I believe he plans to file them with the court.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.

2-21-2012
Date

Barry Adkins
Barry Adkins

I, Donald K Bazell, a Notary Public in and for the aforesaid County and State, do hereby certify that Barry Adkins, whose name is signed to the foregoing Affidavit, has this day acknowledged the same before me in my said County and State.

Given under my hand this 21st day of February, 2012.

My commission expires: 6-12 2016

Donald K Bazell
Notary Public